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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 09/621,675   | 07/24/2000  | Guy Nathan           | 871-87                | 6898             |
| 23117  | 7590        | 07/12/2006           | EXAMINER              |                  |
| NIXON & VANDERHYE, PC<br>901 NORTH GLEBE ROAD, 11TH FLOOR<br>ARLINGTON, VA 22203 |             |                      | SALTARELLI, DOMINIC D |                  |
|  |             |                      | ART UNIT              | PAPER NUMBER     |
|  |             |                      | 2623                  |                  |

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |  |                                    |  |
|------------------------------|--|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/621,675     | <b>Applicant(s)</b><br>NATHAN, GUY |  |
|                              | <b>Examiner</b><br>Dominic D. Saltarelli | <b>Art Unit</b><br>2623            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14, 15 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14, 15 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed June 5, 2006 have been fully considered but they are not persuasive.

First, applicant argues that the combination of Miller, Siegel, Barrett and Werth suffers from application of improper hindsight, alleging the office has not provided motivation for including the teachings found in the Werth reference (applicant's remarks, page 5, lines 1-13).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case, Werth teaches controlling access to different features of a vending machine, which is in the same field of endeavor as the Miller and Siegel references, and Werth elaborates on this by providing evidence that restricting access to different features intended for managers and operators using password protection was known to persons of ordinary skill in the art at the time, thus making the combination as set forth an obvious one.

Second, applicant argues that Werth and other prior art references are not analogous art (applicant's remarks, page 5, lines 11-13).

In response to applicant's argument that Werth is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Miller, Seigel, and Werth are all dealing with the design and use of vending machines (wherein a musical jukebox is a vending machine which sells music).

Third, applicant argues that not all claim limitations have been met because Werth does not disclose providing different buttons on different screens for different classes of users (applicant's remarks, page 5 line 14 – page 6 line 10).

However, it is the combination of the Miller, Siegel, Barrett and Werth references which must be considered as a whole when establishing a *prima facie* case of obviousness, and the action mailed on January 12, 2006 in addition to the instant action both provide a detailed explanation which explains how the combination of Miller, Siegel, Barrett and Werth would teach the claimed invention. One cannot show nonobviousness by attacking references individually

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where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (5,959,869, of record) [Miller] in view of Siegel et al. (4,413,260, of record) [Siegel] and Barrett et al. (5,214,761, of record) [Barrett] and Werth et al. (4,369,442, of record) [Werth].

Regarding claim 14, Miller discloses a digital audiovisual reproduction system (fig. 2) comprising a central unit (processor 201 in fig. 1) controlling display means (video monitor 102 in fig. 2), a touch screen (touch screen 104 in fig. 2), and memory (fig. 1, DRAM 206, SRAM 208, and EEPROM 210) through a multitask operating system (said operating system capable of performing multiple tasks at the same time, col. 10, lines 25-44) comprising a tools and services library (processor 201 consists of software modules which control vending operations, telecommunication operations, and multimedia presentations, col. 10,

lines 25-44), wherein the operating system comprises an interpreter for interpreting actions of an operator on the touch screen (an inherent feature, as this is what enables a touch screen to be used in the system). Miller further discloses the all the software code resident in the system is written and updated by a remote system (col. 10, lines 45-55).

Miller fails to disclose an operator to access a module in the tools and services library so as to offer a manager of the audiovisual reproduction system a given number of credits, one credit corresponding to the fee necessary to select a song, the number of credits being stored in a file on the memory as a credit reserve, this file being updated each time that the manager uses a credit and each time that the operator supplies one or more credits, said interpreter being adapted for interpreting touching of a first button in a first area of the touch screen as a request for adding in said file one credit of the credit reserve, and touching of a second button in a second area of the touch screen as a request for removing in said file one credit of the number of credits only if the credit reserve is not empty, the first button being provided in a first displayed screen for the operator, the second button being provided in a second displayed screen for the manager, an interface being automatically displayed in the first screen and in the second screen when one of said specific buttons is used, said interface requiring a first code for enabling said first button to function as a request for adding in said file one credit to the credit reserve when this first button is touched, said interface requiring a second code for enabling said second button to function as a request

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for removing in said file one credit to the credit reserve when this second button is touched.

In an analogous art, Siegel teaches an audio reproduction system (col. 2, lines 39-56) wherein an operator (serviceman) can offer the manager of the reproduction system a given number of credits, one credit corresponding to the fee necessary to select a song (through actuation of the 'free play credit entry function'), enabling the operator to give the special benefit of free use to the manager.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller to include offering credits, wherein one credit corresponds to the fee necessary to select a song, as taught by Siegel, wherein the number of credits available would be kept track of in a file in the memory means, as the system disclosed by Miller is a computer with an operating system (Miller, col. 10, lines 34-44). The reason for doing so is to provide the benefit of free use of the system to the manager, as it is well known to offer free samples of products in order to encourage purchases, and enabling the manager to play a given number of songs for free would engender further use of the system by users.

Miller and Siegel fail to disclose said interpreter being adapted for interpreting touching of a first button in a first area of the touch screen as a request for adding in said file one credit of the credit reserve, and touching of a second button in a second area of the touch screen as a request for removing in

said file one credit of the number of credits only if credit reserve is not empty, the first button being provided in a first displayed screen for the operator, the second button being provided in a second displayed screen for the manager, an interface being automatically displayed in the first screen and in the second screen when one of said specific buttons is used, said interface requiring a first code for enabling said first button to function as a request for adding in said file one credit to the credit reserve when this first button is touched, said interface requiring a second code for enabling said second button to function as a request for removing in said file one credit to the credit reserve when this second button is touched.

In an analogous art, Barrett teaches a touch screen interface (col. 8, lines 14-16) wherein touching of a first button in a first area of the touch screen is interpreted as a request for adding value to a variable (plus region 90 in fig. 4, col. 6, lines 61-66), and touching of a second button in a second area of the touch screen as a request for removing value from a variable (minus region 86 in fig. 4, col. 6, lines 53-57), providing an operator with an intuitive interface for adjusting the value of a variable (col. 6 line 43 – col. 7 line 6).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller and Siegel to adapt said interpreter such that touching of a first button in a first area of the touch screen as a request for adding in said file one credit of the credit reserve, and touching of a second button in a second area of the touch screen as a request for removing in said file



one credit of the number of credits only if credit reserve is not empty (because it is nonsensical to store a negative number of credits) as taught by Barrett, for the benefit of providing an operator with an intuitive and thus easy to user interface for adjusting the value of the credit reserve variable.

Miller, Siegel, and Barrett fail to disclose the first button being provided in a first displayed screen for the operator, the second button being provided in a second displayed screen for the manager, an interface being automatically displayed in the first screen and in the second screen when one of said buttons is used, said interface requiring a first code for enabling said first button to function as a request for adding in said file one credit to the credit reserve when this first button is touched, said interface requiring a second code for enabling said second button to function as a request for removing in said file one credit to the credit reserve when this second button is touched.

In an analogous art, Werth teaches restricting access to specific aspects of a vending machine to the owner [manager] (access of output registers only being available to owners, col. 4, lines 4-9) and restricting other specific aspects of a vending machine to the operator [serviceman] (system access is provided to servicemen, col. 4, lines 4-9), each accessed through entry of an input code (col. 4, lines 9-12), granting exclusive access to only the parties which have a right said vending machine aspects.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller, Siegel, and Barrett to include

restricting access those specific aspects of a vending machine particular to the manager and restricting other specific aspects of a vending machine to the operator, each in turn accessed through entry of an input code, granting exclusive access to only the parties which have a right to those vending machine aspects specific to the manager and to the operator. This combination of Miller, Siegel, Barrett, and Werth results in a system wherein the first button (for adding, as taught by Barrett) is provided in a first displayed screen for the operator (the individual taught as being the one with the authority to add credits, as taught by Siegel, thus having a corresponding screen that allows said individual to interact with the system in the prescribed manner), the second button (for deducting, as taught by Barrett) being provided in a second displayed screen for the manager (the individual taught as being the one with the authority to deduct the credits, for encouraging use of the system, and thus having a corresponding screen that allows said individual to interact with the system in the prescribed manner), an interface being automatically displayed in the first screen and in the second screen when one of said specific buttons is used (for input of said input code, or password), said interface requiring a first code for enabling said first button to function as a request for adding in said file one credit to the credit reserve when this first button is touched, said interface requiring a second code for enabling said second button to function as a request for removing in said file one credit to the credit reserve when this second button is touched (because the interface is utilizing a touch screen, input of the passwords for accessing different features,

as taught by Werth, is input using an on screen interface on said disclosed touch screen).

Regarding claim 18, Miller, Siegel, Barrett, and Werth disclose the system of claim 14, wherein the operator can limit the ranges of values within which the manager can modify the physical parameters of the audiovisual reproduction system (the operator has complete control over the software code resident in the system, Miller, col. 10, lines 45-55, and thus the operator is capable of programming the system of limit the ranges of values within which the manager can modify the physical parameters).

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller, Siegel, Barrett, and Werth as applied to claim 14 above, and further in view of Kalis et al. (6,212,138, of record) [Kalis].

Regarding claim 15, Miller, Siegel, Barrett, and Werth disclose the system of claim 14, but fail to disclose credits supplied by the operator can be used within a given time range determined by a program module that displays a special screen for selection of time ranges within which the credits in the reserve may be used.

In an analogous art, Kalis teaches an audiovisual reproduction system (fig. 1) wherein an operator sets a time range for 'free play' of the system (col. 9, lines 55-56) and a special screen is displayed with provides feedback concerning the

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selection of said time ranges (col. 10, lines 9-29), giving the operator flexibility in control over the use of the system.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Miller, Siegel, and Barrett to include determining a time range for when free play can occur by the operator and displaying a special screen for selection of said time range, as taught by Kalis, wherein the credits (taught by Siegel) are the means by which 'free play' is actuated. The reason for doing so is to offer the operator flexibility in control over use of the audiovisual reproduction system.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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## Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
Art Unit 2611

DS

A handwritten signature in black ink, appearing to read 'JOHN MILLER', with a long horizontal line extending to the right.

**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**